

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

GUY DON MINZE
(# 023527),

Plaintiff,

V.

DALE STANLEY HANNA,

Defendant.

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No. 3:17-cv-2038-B-BN

**FINDINGS, CONCLUSIONS, AND RECOMMENDATION OF THE
UNITED STATES MAGISTRATE JUDGE**

This *pro se* action – transferred from the Fort Worth Division of this district, *see* Dkt. No. 6, after a determination that Plaintiff Guy Don Minze should be granted leave to proceed *in forma pauperis* (“IFP”) under the Prison Litigation Reform Act, *see* Dkt. No. 5 – has been referred to the undersigned United States magistrate judge for pretrial management under 28 U.S.C. § 636(b) and a standing order of reference from United States District Judge Jane J. Boyle. The undersigned issues the following findings of fact, conclusions of law, and recommendation that the Court should summarily dismiss the claims asserted by Minze.

Applicable Background

Minze, currently incarcerated at the Jack Harwell Detention Center in Waco, brings this civil rights action against Defendant Dale Stanley Hanna, who Minze states is the Johnson County District Attorney. *See* Dkt. No. 1 at 3. According to Minze, Hanna “completely changed the original charges/indictments” against him, “to reflect

charges completely unrelated to original charges/indictments as shown in” the original indictment. *Id.* at 5. Minze requests \$2.4 million and an investigation. *See id.*

Legal Standards and Analysis

A district court is required to screen a civil action brought by a prisoner – whether he is incarcerated or, instead, detained prior to trial – seeking relief from a governmental entity or employee. *See* 28 U.S.C. §§ 1915A(a), (c). On initial screening, the Court must identify cognizable claims or dismiss the complaint, or any portion of the complaint, that:

- (1) is frivolous, malicious, or fails to state a claim upon which relief may be granted; or
- (2) seeks monetary relief from a defendant who is immune from such relief.

Id. § 1915A(b); *see also id.* § 1915(e)(2)(B) (similar as to all plaintiffs, including non-prisoners who, like Minze, have been granted leave to proceed IFP).

Applicable here, state prosecutors are absolutely immune from a suit for damages for actions taken within the scope of their duties as prosecutors. *See Imbler v. Pachtman*, 424 U.S. 409, 420-24 (1976); *see also Beck v. Tex. State Bd. of Dental Exam’rs*, 204 F.3d 629, 634 n.2 (5th Cir. 2000) (“As to prosecutors, entitlement [to immunity] flows from performance of activities that are intimately associated with the judicial process, such as initiating and prosecuting a criminal case.” (citing *Imbler*, 424 U.S. at 430)). A plaintiff “may overcome a defendant’s prosecutorial immunity by alleging actions that fall outside ‘initiating the prosecution and in carrying the case through the judicial process.’” *DeLeon v. City of Dallas*, No. 3:02-cv-1097-K, 2003 WL

22244773, at *1 (N.D. Tex. Sept. 16, 2003) (quoting *Boyd*, 31 F.3d at 285), *reversed in part on other grounds*, 141 F. App'x 258 (5th Cir. 2005).

Prosecutorial immunity, however, applies even if the prosecutor is accused of knowingly using perjured testimony, withholding exculpatory evidence, and failing to make full disclosures of facts. State prosecutors are absolutely immune for their actions intimately associated with the judicial process, including their actions in seeking the issuance of an arrest warrant.

Id. (citations and quotation marks omitted); see *Bibb v. Montgomery Cty. Sheriff*, Civ. A. No. H-13-3736, 2014 WL 3828232, at *8 (S.D. Tex. July 30, 2014) (“[A] prosecutor is entitled to absolute immunity for his action in commencing a prosecution and all actions during the course and scope of the prosecution, even against charges that he acted ‘maliciously, wantonly, or negligently.’” (quoting *Imbler*, 424 U.S. at 430-31)).

Here, even liberally construing Minze’s allegations – set out substantively in full above – he fails to allege specific facts to overcome prosecutorial immunity. And, to the extent that Minze is challenging a state conviction and sentence, he first should bring such a challenge through a state application for habeas relief.

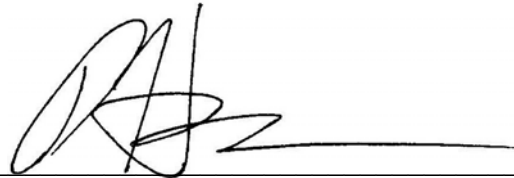
Recommendation

The Court should summarily dismiss this action under 28 U.S.C. §§ 1915A(b)(2) and 1915(e)(2)(B)(iii).

A copy of these findings, conclusions, and recommendation shall be served on all parties in the manner provided by law. Any party who objects to any part of these findings, conclusions, and recommendation must file specific written objections within 14 days after being served with a copy. See 28 U.S.C. § 636(b)(1); FED. R. CIV. P. 72(b).

In order to be specific, an objection must identify the specific finding or recommendation to which objection is made, state the basis for the objection, and specify the place in the magistrate judge's findings, conclusions, and recommendation where the disputed determination is found. An objection that merely incorporates by reference or refers to the briefing before the magistrate judge is not specific. Failure to file specific written objections will bar the aggrieved party from appealing the factual findings and legal conclusions of the magistrate judge that are accepted or adopted by the district court, except upon grounds of plain error. *See Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415, 1417 (5th Cir. 1996).

DATED: August 3, 2017

A handwritten signature in black ink, appearing to read 'D. Horan', with a long horizontal line extending to the right.

DAVID L. HORAN
UNITED STATES MAGISTRATE JUDGE